

# **EVALUATING THE EFFECTIVENESS OF GHANA'S JUVENILE JUSTICE SYSTEM IN REHABILITATING THE OFFENDER**

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SYSTEM IN REHABILITATING THE OFFENDER**

**By**

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## **DECLARATION**

I hereby declare that this dissertation is the result of my own original work and that no part of it has been presented for another degree in this university or elsewhere.

Candidate's Signature: .....

Candidate's Name: .....

Date: .....

I hereby declare that the preparation and presentation of the dissertation were supervised in accordance with the guidelines on the supervision of dissertation laid down by Ashesi University College.

Supervisor's Signature: .....

Supervisor's Name: .....

Date: .....

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## **ABSTRACT**

This dissertation critically examines the Juvenile Justice System in Ghana, with particular reference to its effectiveness in reforming the Juvenile offender. The research sought to ascertain what actually takes place at the Remand and Correctional facilities in comparison to the requirements of the Juvenile Justice Act, 2003. In particular, emphasis was placed on the effectiveness of programs aimed at reforming such offenders during their period of incarceration. Skills training and re-socialization programs offered at such institutions were examined to establish its efficaciousness.

The methodology employed in evaluating the effectiveness of the Juvenile Justice Administration in Ghana included meetings held with members of the juvenile justice system, in Accra. Additionally visits were made to correctional homes and juvenile detention centers to conduct semi structured face to face interviews and questionnaire administration. Where appropriate, telephone interviews were used to garner information. The findings and analysis presented in this study consists mostly of information obtained from a qualitative study of a sample comprised of some workers and inmates of the Correctional Centers in Accra as well as a few legal practitioners involved in the Juvenile Justice System.

The study postulates that, there is a major disconnect between the theory or legal provisions for the reformation of juvenile offenders and the actual practice. It was realized that the practices in the correctional homes to a certain extent do not match the provisions in the Juvenile Justice Act and this is as a result of the lack of resources to carry out the stipulated practices diligently. The restriction and conditions that come with detention however according to the study has the ability to deter the child from repeating an offence so as to avert such undesirable situations.

The practices of the various stakeholders in the juvenile justice system need close monitoring and supervision to ensure conformity with the law governing the system so as to ensure the human resources offenders are well nurtured and harnessed for national development.

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## **CHAPTER 1: INTRODUCTION**

### **1.1 Background**

A juvenile delinquent is an adolescent whose behavior is contrary to the laws of the land (Ayete-Nyampong, 2011). For the purpose of this research, a juvenile is defined as a child between the ages of 10 and 18. Consequently, phrases like the young offender, the youth and the child will be used interchangeably to represent the juvenile.

Juveniles when convicted of their crimes are subjected to the punishments incorporated in the legal system. In the United States of America, "the Juvenile Justice System (JJS) was established in 1899 to separate the adult criminal justice system from the juvenile system. The goal was to facilitate the rehabilitation of youth" (Loeber & Farrington, 2001). It was set up and was to be operated as a separate entity within the criminal justice system with a mandate that juvenile offenders must be treated differently than adult offenders (Baergg & Hoffman, 2011).

The philosophy of the time was that youth should be protected from the punishment that criminal courts placed on adult offenders (McCord et al, 2001). This has been the situation till date and other countries have joined the incorporation of a juvenile justice system in their country's legal system.

"The issue of juvenile delinquency is constantly recurring in every society and Ghana is no exception. According to Dei-Tumi (2011), "the rising phenomena of youth unemployment, brain drain, juvenile crime and youth agitations in Ghana in recent times are manifestations of a distasteful youth development profile" (Dei- Tumi, 2011). The increasing rate at which the country is being attacked by this social canker gives rise to the need for a well functioning juvenile justice system.

"Since independence in 1958, Ghana's penal system of forty-three (43) prisons and a juvenile facility, the Ghana Borstal Institute, has been guided by the objective of 'reclaiming' the criminal with the view of rehabilitation" (Asiedu, 2000). The main reason

for the establishment of the Correctional Homes in Ghana is to ensure “training for citizenship and a concern that the young and careless should be saved from a wasted life of crime” (Asiedu, 2000).

The juvenile justice system, according to the Juvenile Justice Act, Ghana, has been put in place to protect the rights of juveniles and ensure an appropriate response to juvenile offenders (Parliament House, 2003). These juvenile offenders are usually kept in Correctional centers in Ghana. The homes are the institutions responsible for using corrective measures, under the Juvenile Justice Act, to raise these children during their time of stay and in the process train them to be productive and responsible members of the society.

The problem of juvenile delinquency has potentially negative effects on both the individual involved and the development of the country as a whole. The behavior of the juveniles put an enormous drain on the resources of the country in terms of cost of policing and courting, and the costs of treatment and incarceration. The lives of these young ones are wasted and unproductive during their time of serving a sentence or facing the consequences of their actions (Brandt, 2006).

Some of these children have to stay in juvenile homes while their colleagues are in school and receiving training for the future. Delinquent youth are seven times more likely to have a history of unemployment and welfare dependence as an adult, and they are more likely to be divorced and to bear children outside of marriage. They are also much more likely to be rearrested at some point in their life (Chung et al, 2005).

The correct functioning of this system undoubtedly has a great impact on the nation's national development as the youth make up about 35% of the population of Ghana (Ghana Statistical Service, 2012). The youth are therefore a great store for human capital and their proper upbringing by state institutions will go a long way to enhance and sustain Ghana's developing economy.

## **1.2 Problem Statement**

Currently there are 98 inmates at the Boys' Correctional Centre and about 4 inmates at the Girls' Correctional Centre in Accra. Research suggests that if released offenders are unemployed and uneducated they are likely to become recidivist offenders (Lockwood et al, 2012). The juvenile justice system in Ghana is one that makes provision for the juveniles in their custody to have access to education and other training facilities that will make them better off in the country when they are released. However, the effectiveness of such programs has not been realized as some juveniles come back into the society and are branded as misfits and as such resort to their delinquent behavior.

The juvenile justice system in some cases does not ensure that the delinquents have access to education. An example is the situation in the Ho Prisons according to an article on Joy online. The article states that, "in Ho, a 15year old was sentenced to a two year prison term for stealing" (Joy Online, 2007). This child, according to the article was going to lose her privilege of going to school as result of making this mistake. This should however not be the case. The relevant question therefore is: How is such a child going to be able to re-integrate into the society without retaliating or repeating the same mistakes out of rebellion and frustration? "Students returning from long suspensions or expulsions, from residential placements, or from secure facilities are at particular risk of school failure and dropping out" (Higgins & Mazotti, 2006). An ineffective system makes social re-integration difficult and stifles development.

"Developing and implementing effective and cost attractive intervention services for juvenile offenders with alcohol/other drug abuse and related problems remain critical needs" (Sherman et al., 1997). The different juvenile delinquents have different problems influencing their behavior and as such need to be tackled with precision and differently

for effectiveness. The legal system however in Ghana does not make provision for this due to lack of the correctional facilities. According an article dated 4<sup>th</sup> August, 2011 and titled, "Woes of the Borstal Child" there are only four functioning correctional facilities while there are several hundreds of children below 18years that live in these homes(Joy Online, 2011).

There has been very little investment in these structures over the years. Also the prisons for the juvenile offenders are not only few but the few available are packed with acquitted criminals, suspects and sometimes juveniles (Joy Online, 2011). As noted in the 2007 report of the National Prison Rape Elimination Act Commission, juveniles are at highest risk of being sexually abused while in confinement, and children housed in adult facilities are at an even higher risk of being victims of sexual abuse than the children retained in juvenile facilities (UNICEF, 2006).

Lawson (2008) in his article with regards to Ghana's Juvenile Justice System suggested that the government looks at other alternative ways of correcting the juvenile offenders other than punishment since this system has failed in making the juveniles better. "It is my considered professional opinion that such an approach or response is becoming detrimental to the future well-being of these young persons" (Lawson, 2008). As at now, there appears to be little that has been done in terms of assessing the juvenile justice system in Ghana although the need is clear.

### **1.3 Research Question**

Is the administration of Ghana's Juvenile Justice System effective in re-integrating back into society the country's delinquent youth that fall foul of the law?

### **1.4 Research Objectives**

- To determine the consistency of the practices in correctional facilities in Ghana

with the provisions of Ghana's Juvenile Justice Act.

- To investigate whether the delinquents are reintegrated well into the society to add to the nation's human capital
- To recommend strategies to facilitate the rehabilitation and integration of the delinquents back into Ghanaian society

### **1.5 Significance of the Study**

"With prison populations growing rapidly in many countries worldwide, effects of incarceration on prisoners' well-being, health, and behavior have become urgent social concerns" (Murray et al, 2012). The issue of juvenile delinquency needs to be tackled and resolved through an effective justice system. This will go a long way to enhance national development.

Also importantly are the effects of imprisonment of the juveniles on recidivism, employment opportunities available for these ex-prisoners and on families and communities (Murray et al, 2012). These effects have a great impact on the human capital of the country and as such there is a need for the right institutions to ensure an improvement in human capital. The effectiveness of a juvenile justice system is necessary for economic growth and development of both the child in question and the nation as a whole as each individual has a part to play in the mentioned national interests and makes up part of the nation's store of human capital.

The proper functioning of a justice system is extremely important for elimination of the menace entirely from the society. "Previous researchers," Allen (1988), Batiuk (1997), Harlow (2003) and Vacca (2004), "have consistently shown that uneducated offenders are likely to be re-incarcerated after their release from custody" (Vacca, 2004). An effective justice system must therefore make provision for a smooth re-integration of the offender into the society to prevent repetition of such acts and at the same time drive

economic development. A creation of awareness of the existence of the problem is therefore necessary and this study seeks to do that through research.

This research is important for a developing economy like Ghana in that, the future of this country lies in the hands of the youth of the country. There is therefore a need for a correct upbringing of the youth such that all will have equal opportunities in the country and not be judged based on certain mistakes they might have made earlier in their lives. If the juvenile justice system is failing or has failed, the children who come out of this system will not be able to mix well with their colleagues and hence might resort to even higher degrees of crime later in their lives. This will drive down economic development. However an effective system will mean that the lives of these delinquents will be reformed at the end of their stay in the juvenile homes thereby restoring human capital of the country for developmental.

There is limited information with regards to the effectiveness of the juvenile justice system in Ghana. As such this research provides information that can be a great contribution to literature in this field for Ghana in particular. Countries especially in Africa can use information from this research to guide policies in the developing countries as the economies of such countries see improvement. Other countries that have not paid particular attention to this research will be aware of the demerits of this social phenomenon, its existence and work hard at eliminating it from their countries.

### **1.6 Scope of Study**

The study focused on the juvenile homes in Accra and not the whole of Ghana. The study was conducted through interviews with the staff at the Department of Social Welfare, Juvenile Homes and the inmates of the juvenile homes. Legal practitioners were also interviewed and data from these interviews were analyzed for the study.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.1 Introduction**

Globally the number of children who lose their liberty as a result of youth crime is estimated to be not less than one million. The possible causes of these deviant behaviors of the youth may be poverty, broken homes, lack of education and employment opportunities, pressures and employment opportunities (UNICEF, 2006).

It is evident that children may or may not intentionally indulge in delinquency; hence there is a need for a system that will effectively correct children who fall prey to the law. The youth are a rich source of any country's human capital and as such their welfare should be at the heart of policy makers. The role of the juvenile justice system is that of a correctional function.

This chapter is focused on a review of literature with relation to the theories surrounding juvenile justice systems and its functionality in societies. "Juvenile and youth justice may be becoming more globalized through the impact of neo-liberalism, policy transfer and international conventions, but at the same time it is becoming more localized through national, regional and local enclaves of difference, coalition and resistance" (Muncie, 2005). Naffine(1993) categorizes juvenile justice systems into welfare or retributive justice systems. No legal system exists either purely as one of the above but usually the other model influences the prevailing model being used (Gale et al, 1993).

#### **2.11 Evolution of the Juvenile Justice Models**

"The creation of separate institutions for the treatment of youths who engage in illegal or immoral behavior is a recent historical development. From the beginning of the

colonial era to the early 1800s youth were subject to the same criminal justice process as adults” (Elrod & Ryder, 2011). The different ideologies concerning the causes and reasons behind juvenile crime created an awareness of the necessity for a separate legal system for juvenile offenders.

Across the globe different models have emerged and are implemented for the purposes of legal proceedings against juvenile offenders. The differing perceptions internationally regarding the causes of juvenile crimes play a critical role in the model implemented in the juvenile justice systems in the different countries (Wiese, 2007). The various theories are all aimed at providing the best legal basis for deterring and reducing juvenile delinquency in society. The different judicial systems with regards to youth crime are as a result of theories that have been developed by legal practitioners and criminologists over the years (Hazel, 2008).

The main theories surrounding youth crime and delinquency are the *welfare* and *justice* models from which the recent *restorative* model has been derived. The restorative model can be traced to the disparities between the two major models and these models are stemming from the Classical School and Positivism. With classicism, it is believed that the offender decides to make the wrong choice while positivism emphasizes on internal factors that the offender has no control over (Muncie, 2005).

## **2.20 The Juvenile Justice Models**

### **2.21 The Welfare Model**

This model explains how the society shapes the behavior and values of its residents, hence *juvenile crime is seen to be caused by the society*. The juvenile justice system is therefore aimed at rehabilitating the offender rather than punishment (Nolasco, 2004).



Alder and Wundersitz (1994) defined the welfare model as a model associated with “paternalistic and protectionist policies, with treatment rather than punishment being the key goal” (Alder & Wundersitz, 1994). This indicates that children are considered to be subject to the environment within which they live but not rational agents because of their immaturity. Hence any delinquent acts on the part of the youth under this model are attributed to malfunctioning in the environment. The system therefore emphasizes the need to treat and cure the fundamental social causes of offending rather than punishing the child for their offences (Hazel, 2008).

In my opinion, the welfare model which tends to be geared towards child protection may in the process lead to making provision for the young to actually shirk their responsibility for the actions that they take. In as much as the structures in the society can influence the actions of young people the welfare model may be misleading and inefficient in identifying the best justice systems. This is the case because the society’s influence on the child however strong still does not coerce the young girl or boy to take part in delinquent activities but rather the final choice really lies with the individual.

If such societal pressures were the reasons for the decision of one to engage in delinquent activities then all members of that society (the youth) or in that environment who are also subject to these pressures would participate in such activities. Since this is not the case in societies within which juvenile crimes are committed this assumption by the welfare model may not always hold. However, the fact that juveniles make decisions without substantial experience of life to guide them may lend some credence to the predictions of the welfare model.

Also since the delinquents are assumed to have taken such acts as a result of their environment and hence not punished as expected, some delinquent youths can

hide under such a system and engage in delinquent acts intentionally knowing that no punishment awaits them. Such a system therefore can promote rather than deter the youth from engaging in delinquency if not monitored closely.

## **2.22 The Retributive Justice Model**

Another model also known as the retributive (justice) model is based on the liberal theory. The underlying principle of this model is that: "Human beings are viewed as free, rational and self-determining agents whose principal concern is to secure the maximum degree of liberty for themselves" (Nolasco, 2004). This system was needed to effectively solve the problem of recidivism that the penalties from the welfare justice system failed to correct.

The reforms that have come about as a result of the retributive justice model in the juvenile justice system show an increasing concentration on the victim and efforts that can ensure that victims of juvenile crimes are included in the decision making process. Here the rehabilitation of the offender is not the only factor considered but rather the victim's welfare is also catered for. This is especially prevalent in the reforms made in Japan's juvenile justice system. The system further builds positive community support as both parties of the crime (offender and victim) are included in the resolution process (Nolasco, 2004).

The welfare model concentrated more on the protection of the child rather than punishing the child to deter them from repeating such acts. The retributive justice model of juvenile delinquency was developed to correct this anomaly (Australian Institute of Health and Welfare, 1998).

The individual in a system like this will be rendered the rights as stated in the state laws while receiving the appropriate punishment as required by law. As such *under this model it is assumed that the youth are old enough to accept responsibility of their*

*actions by virtue of the citizenship rights which they enjoy.* The retributive justice model therefore extends to the apportioning of blame to the delinquents and making them accountable for their actions through punishments (Hazel, 2008).

### **2.23 Restorative Justice Model**

The restorative model is the currently emerging model of the juvenile justice system and this model is especially used in Australia. This model is based on the notion that justice is best served when all actors in the system receive equal opportunity and benefits from the juvenile justice system. This is done through a system of accountability through the sanctioning of offensive behavior and also based on measures that can restore the victims.

The offender is therefore required to “make amends” to victims and the community, for the harm caused as a result of their delinquent behavior. Also the competencies of the offenders are developed through rehabilitation and reintegration with the aim of making the offenders come out better and more responsible in the community. This model further creates a society or community that is safe and secured through its activities (Nolasco, 2004).

The underlying principles of restorative justice first include the view that crime is conflict between individuals and not between the individuals and the state. Also it is believed that every member of the community is responsible for the governance of security, crime and disorder in the country (Mantle et al, 2003).

The restorative justice model is considered to be a third way: that is a separation from both retribution (justice model) and rehabilitation (welfare model). *This may include response to crime, the need to punish offenders to deter them from further offending while separating them from the community.* The context within which the system is to be implemented however can either impede or enhance the programs within the system.

For an urban area for example where members of the community are hardly related or share any cultural relationships the victim and the offender may not be able to resolve a problem without worsening the situation. Such a system is more effective in the rural areas due to the extended family systems prevalent in these areas such that the victim and the offender are always likely to be in one kind of relationship or the other , for example through family ties or cultural ties.

## **2.30 The Juvenile Justice System in Ghana**

### **2.31 History and Structure of Ghana's Juvenile System**

In Ghana children were subjected to the traditional system for corrections for a long time (Judicial Training Institute, 2007). This system was made up of the extended family system and the family structure that ensured that the whole community is united and everybody works for the good of the society. Urbanization and globalization however has led to the breakdown of this extended family system with a community being made up of different family unit that do not consider themselves a family hence have an individualist view to life in the community.

This led policy makers in the country to resort to legislation formally enacted to correct behavior in the country. Ghana after attaining independence had no comprehensive policy on juvenile justice but relied on the "Criminal Procedure Code" Act 30 of 1960 which allowed for children in conflict with the law to be treated differently (Baa-Ang, 2012). The major shortcomings of this Act led to the ratification of the Commitment to Rights of Children (CRC) in 1990. This treaty was also geared towards the protection the child's rights including children in conflict with the law. Additionally an elaborate children's Act (560) was enacted in 1998 to further ensure that the children are protected in every aspect of their lives and endeavors (Ayete-Nyampong, 2011).

Throughout the period and until 2003, juveniles were subject to the same justice system as adults but there was a need for a separate system for juveniles. This need was as a result of the requirements for protecting the rights of the child as reiterated by various international institutions as the way forward for ensuring the rule of law in any country. The juvenile justice system is required “to be recognized as a separate entity within the criminal justice system, as both local and international norms mandate that juvenile offenders must be treated differently than adult offenders” (Baergg & Hoffman, 2011).

The Juvenile Justice Act (653) was enacted in the fourth Republic of Ghana in 2003 by Parliament to provide juveniles with a system that will ensure that their rights are protected and appropriately responded to, for the good of the offender and the society as a whole (Parliament House, 2003).

Apart from this Act, the Children’s Act (560), a National Social Protection Strategy (NSPS) which was developed in 2007 among other government institutions have been put in place to ensure that the welfare of the child is protected. “However, in spite of these efforts, the policies and programs put in place to protect the child have not translated successfully in practice for children in conflict with the law” (Ayete-Nyampong, 2011).

Most of the children in the correctional facilities do not understand what their human rights are; much more ensure that they are not violated. The Juvenile Justice Act in Ghana is therefore may not be serving the purpose, for which it has been instituted and hence may need a reformation.

This justice system is guided by the Juvenile Justice Act, hence forms a basis for its structure. The first part of the act which is made up of various sections refers to the

rights of the juvenile, his or her arrest and cautions taken in the arrest of the juvenile. The welfare principle is a priority in this section and all actions made are to be made while protecting the rights of the children. In keeping up with the best principle of the child, the Juvenile Justice Act shifts from the punitive and retributive model to reformatory approach.

There are established juvenile courts where the cases are to be tried both formally and informally and assistance provided for the juveniles in terms of legal aid and representation, preparation of social enquiry reports and possible committals to correctional facilities. Finally there are correctional facilities available for juveniles who are found guilty of crimes to be housed and trained to function better in the society upon release. CHRAJ, the Minister of Interior, the Departments of social Welfare and the Ministry of Women and Children's Affairs oversee the operations of these correctional facilities in Ghana (Ayete-Nyampong, 2011).

In Ghana the model that the juvenile justice system is based on is *more of a retributive system*. The Juvenile Justice Act, 2003 makes provision for juvenile homes and correctional facilities after the delinquents are convicted of crimes. These convicts are entitled to certain rights and the degree of punishment is dependent on the severity of the crime. The system is expected to reform the offender and at the same time separate them from the society within which the crime was committed. This shows that there is an element of the welfare principle since the correctional facilities like DOVVSU, CHRAJ in addition to the police service indicate the commitment of the legal system to the welfare of the offender (Parliament House, 2003).

### **2.32 Loopholes in Ghana's Juvenile Justice Systems**

Hoffman and Baerrg (2011) in their study indicated that in spite of the development that Ghana has been able to achieve, the administration of juvenile justice in this country is still besieged by many problems. There is no specific agency in charge of juvenile criminology and according to the CHRI study; the absence of a particular department to effectively administer juvenile justice is, probably, because the Juvenile Justice Act failed to mandate any agency or department with such responsibility (Baerrg & Hoffman, 2011). The juvenile justice system is plagued with inefficient management of the court systems as no proper scheduling has been put in place to ensure that the cases of these children are given a fair hearing. In addition there is no proper communication between the departments, agencies and ministries in charge of juvenile justice in Ghana.

In addition to this there is lack of publicly available legal aid services specifically for the young offender. Even though the young offender by law is supposed to access legal aid to be able to engage in the legal proceedings of his or her case, research indicated that the juvenile is not entitled to the available legal aid from the government (Baa-Ang, 2012). This is obviously a violation of the welfare principle and needs to be looked into.

The inadequacies of the juvenile justice act translate into lack of enforcement of these regulations by the courts and the police. "In 2011, the media reported that a Kumasi circuit court judge issued a custodial sentence to a "19-year young person who admitted to having stolen a cellular phone belonging to the driver of an official of the state, with conditions of hard labor" (Baerrg & Hoffman, 2011). This is a blatant disregard of the laws and such activities are shifting the justice system into a more

punitive approach which is in line with the retributive model as against the welfare model stated in the constitution.

### **2.33 Similarity between the Structures of Ghanaian and other Juvenile Justice Systems**

The western juvenile justice system is similar to that of Ghana since they all came into existence as a result of the requirements of international humanitarian organizations like the UNICEF. In the States for instance there is a separate legislation for juvenile delinquents which emanated from the country's criminal justice system.

On the arrest of a juvenile, a decision is made as to whether to send the matter to the juvenile justice system or divert the case to alternative programs for resolution based on the severity of the offence (The National Criminal Justice Reference Service, 1999). If the juvenile has to be detained, it is required by law that they are separated from the adult inmates just as is the case in Ghana according to the Juvenile Justice Act (2003).

Further the intake department is in charge of the processing of cases for these juveniles so that they can be tried in the juvenile courts. This department act as the department of social welfare does in Ghana, superseding the activities in the system to ensure a fair trial for the children. After the hearing at the juvenile court the child is either released or kept in a residential placement for rehabilitation.

The residential placements in the western countries can be likened to the correctional facilities in Ghana. In addition the united states have certain organizations that are working hard to ensure that the juvenile justice system is protecting the child while reducing the right of delinquency. One of such is the "Office of Juvenile Justice and Delinquency Prevention" (Office of Juvenile Justice and Delinquency Prevention, 2012).



### **2.34 The Effectiveness of the Rehabilitation Process**

From the juvenile justice structures in most of the countries discussed it can be noted that the main rehabilitation is expected to take place in correctional facilities both in Ghana and in the Western countries. Research has however proven that most of these correctional facilities have the juveniles leaving the correctional facility worse-off and returning to the home a greater social threat as a result.

In Russia for instance, youth recidivism is said to be high ranging from 34.2% to 36.2% and this is attributed to the improper education that the young people receive while in the juvenile homes and the bad experiences upon their release in search of livelihood. In a situation like this they have no option but to resort to youth crime again (Unicef, 2008).

According to Gast (2001) there are a myriad of limitations militating against the realization of the goals of promoting a child's reintegration and assuming a productive role in society after release. Among others was the low quality of education offered at the juvenile homes. "Even with the tremendous range of programs and opportunities and dedicated staff at the Youth Centre, the environment was one that cuts a young man off from his community and makes him more knowledgeable in the world of crime" (Gast, 2001).

In comparison with the correctional facilities in Ghana, the education provided and the opportunities available for training are inadequate. This is because of the lack of funds, low number of social workers and the unwillingness of government to invest heavily in this sector. The children therefore get basic education in social education and nothing more (Baergg & Hoffman, 2011). Education is however seen as a key driver of change since it changes mindsets and its absence is therefore a contributing factor to the increasing rate of recidivism in the countries mentioned.

In the United States of America the situation in correctional institutes is not any different. Injustice is reflected in the incarceration of a juvenile for a lifetime without parole. However their juvenile system was founded on the grounds that juveniles or young people have the potential to grow and change and as such the platform must be created for that to happen. “Almost 2,500 young people have been denied any opportunity in their lifetime to prove they have been rehabilitated and are safe to return to our communities” (The Campaign for the Fair Sentencing of the Youth, 2012).

On the whole research needs to be conducted concerning the juvenile justice system so as to create an awareness of the inefficiencies and loopholes in the justice system. This is necessary to ensure that the rights of the children are protected and at the same time measures are put in place to make them productive in all circumstances. In Ghana, information on the effectiveness of the housing facilities is hard to come by, but this is necessary to ensure that the policy makers and stakeholders are aware of the predicaments of the child so as to come to their aid.

This research provides an analysis on the situation in the juvenile homes and the effects of rehabilitation on the offender and further acts as a call on government and other stakeholders for a reform of the juvenile justice system in the country.

## **CHAPTER 3: METHODOLOGY**

### **3.0 Introduction**

The aim of this study was to investigate the processes inherent in the juvenile justice system in Ghana taking into consideration the correctional facilities available for youth crimes. The research further investigated whether the activities that take place in the correctional centres were consistent with the juvenile justice act and whether the correctional facilities were capable of reintegrating the young back into the society.

This chapter first discusses the research design and includes a discussion of the research tools to be used for the collection of data for this study. Areas such as the types of data, their sources, and scope of the study, sample size, the questionnaire design and administration, likely limitations of the data collected are thoroughly discussed in this chapter.

### **3.1 Study Design**

The research design used for this research was an exploratory one with heavy reliance on qualitative data gathered from interviews and questionnaires. The research sought to investigate the effectiveness of Ghana's juvenile justice system by checking the practises with the provisions of the Juvenile Justice Act. Through this exploration the key areas in the Juvenile Justice System in Ghana are highlighted and gaps identified, for further research and improvement.

### **3.2 The Structure of the Juvenile Justice System in Ghana**

In Ghana, delinquent juveniles are entitled to a separate housing facility while being held in custody and this is stated in the constitution of the country. The Juvenile Justice Act 2003 was enacted to ensure that the youth are not mixed with the adult criminals. As a result of this there are institutions in the country that are committed to housing and training juvenile delinquents. These facilities are tasked with providing

training while the convicted young criminal is being incarcerated. The aim of the training is to ensure that the offender comes out better and with a different mind-set to foster better relationships and behaviour in their communities. Some institutions available currently are Juvenile Remand Homes, Junior and Senior Correctional Centres which are widely spread across the country though in limited quantity (Parliament House, 2003).

As part of the requirement of Ghana's juvenile justice system, the offender when arrested is entitled to certain rights under the juvenile justice act. In relation to the rights of the child, it is emphasised that, "the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time" The act is the law that guides proceedings in juvenile legal processes but it is argued that this is not the case in Ghana (Baergg & Hoffman, 2011).

Institutions like Domestic Violence and Victim Support Unit (DOVVSU), Ghana Prisons Service and the Ministry of Social Welfare also play a critical role in the legal processes involving children in Ghana.

### **3.3 Scope of the Study**

The population of the study includes all juvenile homes across the country as well as the various legal practitioners in the areas of juvenile justice. From this population the area of study was selected. The population is too large given the time available and as such the study area chosen out of this population was the city of Accra. This city is the capital city of Ghana and has a good representation of all the various institutions and systems in the country.

This study covered interviews with the legal practitioners and inmates at the “Boy’s Correctional Centre, Boys’ Remand home and the Girl’s Correctional Centre in Accra. Further the views of a few legal practitioners in Accra were sought with regards to the laws concerning juveniles. Accra was the most appropriate area for this study because the city has a broad range of law firms and legal practitioners both private and public and hence can give a diversified view of the topic under review. Also Accra is reported to have a high crime wave, hence is likely to have a high degree of juvenile delinquent cases as compared to the other regions in the country.

The correctional facilities were also included in the research because they provide a real life scenario of what actually goes on in a juvenile home which is supposed to be consistent with the legal requirements. This consistency is what determines how effective rehabilitation is since that is the main aim of the law. The concentration of juvenile delinquents in this highly populated urban area informed the research of the resourceful pointers available in the city of Accra. Also most of the cases relating to juveniles are transferred to Accra due to the facilities available; examples are the private and public institutions that are in charge of legal processes with regards to the juvenile.

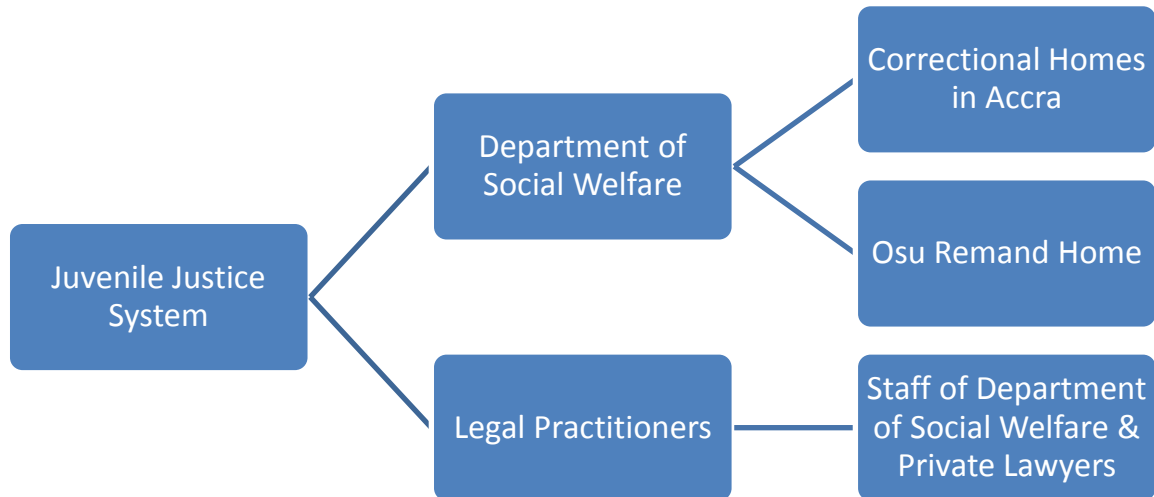
The sites that were chosen for data collection provide a real life situation of how the Juvenile Justice Act, 653 (2003) of Ghana is actually being implemented in the juvenile home. Interviews were critical for understanding how knowledge is formed between researcher and interviewee (Elwood & Martin, 2000). The researcher therefore has to be aware of the environment within which the activities take place and considering this context, useful analysis can be made and recommendations as well, hence the need for the interviews with inmates and staff at the correctional homes.

### **3.4 Sampling Technique, size and Sampling Frame**

The unit of analysis for this study was the juvenile justice system and the correctional centres in Ghana. The sampling technique used for the research was a non-probabilistic type; purposive sampling. Purposive sampling is a sampling technique that selects participants of the research based on the judgement of the researchers as to who would be able to furnish them with the best information to achieve the objectives of the study (Kumar, 2005). This sampling technique was chosen firstly because of the nature of the research and the information needed. Holding discussions and interviews with the few people that have accurate information about juvenile justice system and its processes is critical in assessing its consistency with the law. This is so because the juvenile justice system is the same in every part of the country irrespective of which expert in the legal system is being contacted.

Also this method of sampling is cost effective as the people that will be contacted will have the information needed and as such time or money spent in reaching them will yield results. The researcher only contacts the people who in her opinion have the required information and are willing to share in purposive sampling. These people are chosen based on referrals and other personal contacts. Below is a pictorial view of the overall sample size.

### **Sampling Strategy**



### **3.5 Data Requirement and Sources of Data**

In the process of collecting data for this research, legal practitioners were interviewed to gather information about the juvenile justice system in Ghana, its structure and general processes. Also interviews were conducted with about five workers from the various correctional institutions. It is assumed that the different correctional institutes in the country all have similar rules, systems and practices as well as young criminals with a wide range of offences. As a result of this, the data gathered is representative of the broader group of juveniles, hence will not impede the significance of the study in any way.

The views of the juvenile delinquents that were available were sought as to their perception of the system their going through; its benefits or demerits with regards to

impact on their lives. Questionnaires were administered to them to this effect. The data gathered serves as a standard for understanding the juvenile justice system, the offenders and the effectiveness of the systems correctional facilities on their lives.

Other secondary sources of data were used in the collection of data. Information about the juvenile justice system from Ghana's Juvenile Justice Act, journals and newspaper publications has been used. Different articles by UNICEF, Commonwealth Human Rights Initiative have also been useful in gathering information about the child's rights with respect to criminal offences.

### **3.6 Research Instruments and Procedures**

The data collection methods used for the study included personal interviews, and questionnaire administration. Questionnaires were necessary so that the participants can respond accurately to the issues raised without fear of being ridiculed or discriminated against for giving out information which is vital in achieving the objectives of the research. Interviews were conducted with the legal practitioners who have expert knowledge on the system. The interviews were structured by using an interview guide so as to ensure that the interactions with these legal practitioners are geared towards the study and do not veer off at any point in time. A period of about two months was used to collect the data from all participants.

### **3.7 Analytical tools**

The data collected was analysed using Microsoft Excel to generate graphs and tables that gave a graphical view of the data gathered. The graphs help to draw comparisons between the practises of the juvenile justice system and the requirements of the juvenile justice act thereby ascertaining its effectiveness.



### **3.8 Questionnaire Design**

Two types of questionnaires were designed for this research; one for the workers of public institutions who deal with delinquents and another for the offenders who are being housed in these facilities. The questionnaires for both parties sought to find out the basic social demographics (age, family size, education level, daily income and so on). Specifically to the employees of the system, questions concerning the activities that take place in the home towards correcting the child, their relevance in their view, the impact it has made over the years and their recommendations for improvements was the form the questionnaire took. Both open and close ended questions were included in both questionnaires as well. The questionnaire for the inmates was geared towards gaining knowledge on the practises that take place in the correctional homes, how the offenders feel about their incarceration, and the activities geared towards reintegration and development.

### **3.9 Limitations of the Study**

The questionnaires had to be filled by the researcher after interviewing the offenders because of the low literacy rate in the home. This dragged the research as each child had to be interviewed by one researcher who had to fill the questionnaires with the interview questions.

Another challenge of the study included the willingness of the juvenile offenders to give off information that reflects their true perception about the juvenile justice system and specifically the loopholes they have identified in the system. This is because during the questionnaire administration, their care takers were around; hence some hesitated to answer certain questions.

The bureaucratic nature of some state institutions made it difficult for data on the juvenile crimes, offenders and the system to be made available in timely function. At DOVVSU for instance frequent visits to the place to gain permission to be granted interviews proved futile due to the level of bureaucracy in the institution.

These challenges made it difficult to reach all targeted members of the sample especially given the time available for the research. The research was however conducted using the available and useful resources to gain data needed.

### **3.91 Ethical Consideration**

During the collection of data, respondents were assured that any information given will be viewed as anonymous hence they will not be affected in any way. The confidentiality clause on every questionnaire explained this. This was done to ensure that information given painted the exact picture of the situation in Ghana.

#### **CHAPTER 4: RESEARCH FINDINGS AND ANALYSIS**

The purpose of this research is to find out how effective the juvenile justice system in Ghana has been operating especially with regards to the practices of the various correctional institutions; its consistency with the law and its ability to reform the offender to that effect. This section brings to light the practices in the correctional institutions, and remand home as compared to the provisions of the Juvenile Justice Act, the rationale behind these practices as well as the effects of these practices on the offender.

Also the research highlights the loopholes in the system as well as the challenges militating against its success. The analysis is informed and greatly influenced by the requirements of the Juvenile Justice Act (653), 2003. Both interviews and questionnaires are analyzed interchangeably in this section based on the different sections of the Juvenile Justice Act. The findings of the study were obtained by graphical and interpretive analysis of the data gathered.

Table 1: Demographic Characteristics of the Respondents

Sample Area	Greater Region	Accra
<b>Sample</b>	80	70%
Characteristic	Number of Respondents	Percentages
	<b>Gender</b>	
Males	75	93.75
Females	5	6.25
	<b>Age of Inmates</b>	
Below 18	57	75%
18-24	18	24%
above 24	1	1%
	<b>Age of other respondents</b>	
above 25	4	100%
	<b>Location of Respondents</b>	
Senior Correctional Centre(inmates)	66	83%
Girls Correctional Centre(inmates)	4	5%
Osu Remand Home(inmates)	6	8%
Public Servants & Legal Practitioners	4	5%

	Region of Origin of Inmates	
Ashanti Region	11	14%
Eastern Region	7	9%
Northern Region	4	5%
Greater Accra Region	22	29%
Central Region	13	17%
Western	4	5%
Upper East Region		0%
Upper West Region	7	9%
Volta Region	4	5%
Brong Ahafo Region	4	5%
Total	76	100%

#### **4.1 Responses from Inmates of Correctional Institutions and Remand Home**

##### **4.11 Reasons for Delinquent Activities and Crimes Committed by Inmates**

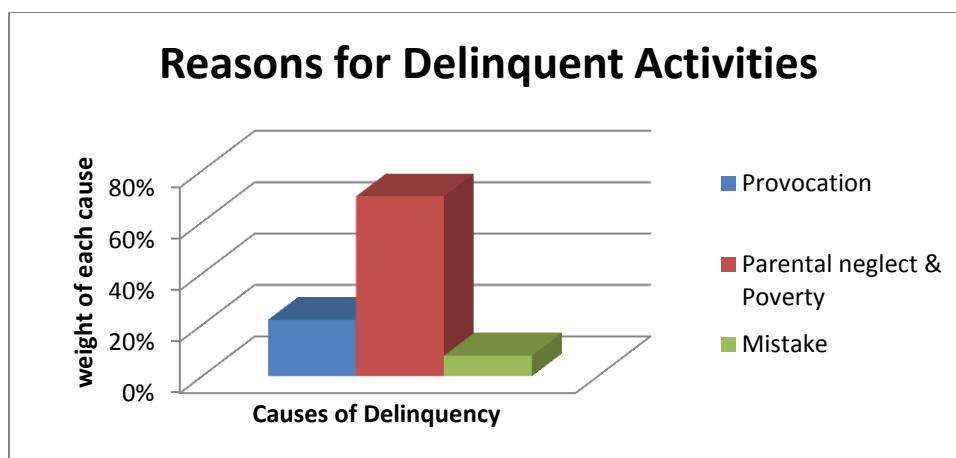
From the figure 1.1, it can be inferred that parental neglect and divorce are the major reasons guiding a child's decision to take part in delinquent activities. In this regard, 70% of the respondents had no parental guidance up until the period before the crime, as a result of either divorce, death of parents or migration from home to the city. Further, poverty led some of these juveniles to engage in theft and in certain cases drug peddling.

Parental guidance plays an important role in socializing the child into his or her community hence its absence leaves the child at the mercy of peer influence. This

leaves the children to act in ways they may or may not know as right. 22% of respondents claimed they committed offences as a result of being provoked by the other party while 8% mistakenly committed offences without envisioning the consequences that come with it. These convicted juveniles more often than not take part in these delinquent activities in their quest to earn a livelihood on their own hence subject to make mistakes and be in conflict with the law.

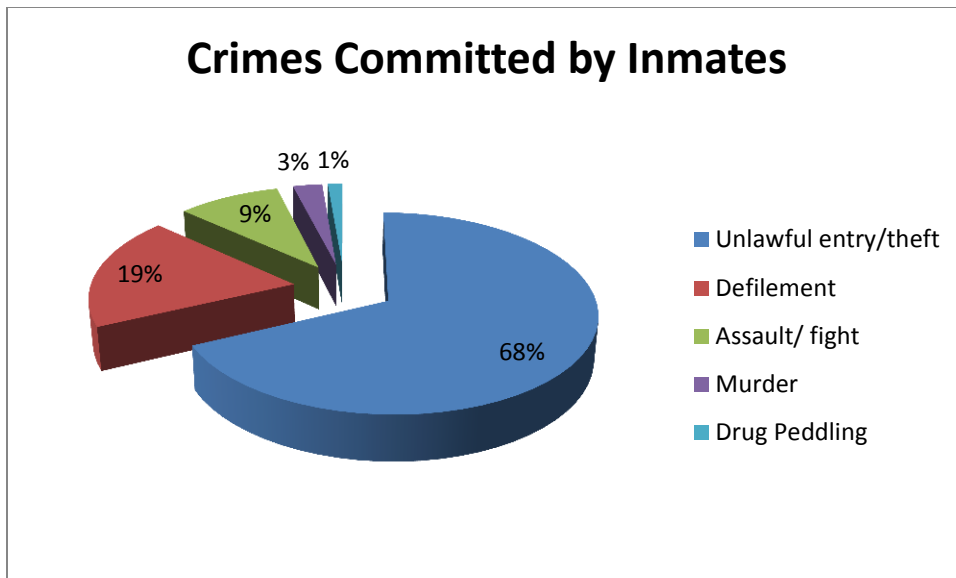
It can be noted that the crimes of juveniles can be associated with certain inactions of their parents or their environment as explained above. Hence the welfare model which looks into the causes of crimes as indicated by Hazel (2008) and looks at remedies to the situation considering the best interest of the child. This finding affirms the fact that the children make certain decisions out of ignorance or parents' negligence (Hazel, 2008). This is an appropriate model for Ghana's situation.

**Figure 1.1: Reasons for Delinquent Activities**



**Source: Field Data**

**Figure 1.2: Crimes Committed**



**Source: Field Data**

The data as collated in figure 1.2 shows that unlawful entry or theft is the most common problem for which about 68% of the respondents have been committed. This to a certain extent affirms the earlier claim by Mensa-Bonsu (2006) that poverty and lack of parental care leave the children to try and use any means to fend for themselves and in this case a large number resorted to stealing (Mensa-Bonsu, 2006). 19% of the inmates also were committed as a result of defilement of other juveniles, with very few juveniles, 13%, being committed for assault, murder and drug peddling.

## **4.2 The Practices in the Correctional Home versus the Juvenile Justice Act**

### **4.21 Offenders at the Osu Remand Home**

**Detention Period:** The questionnaires administered at the remand home indicated that all inmates had been detained for less than six months as stipulated in the Juvenile Justice Act, section 23. This is necessary because the remand home is a temporary home to keep the suspected juvenile until case is tried and judgment is finally passed. To this extent the requirements of the law are being adhered to.

**Renewal of Warrant:** According to section 23 of the Juvenile Justice Act, 2003, the remand warrant must always be renewed only in the presence of the juvenile. However in an interview with the Greater Accra regional director of the department of social welfare, the social workers happen to do otherwise. The interview revealed that, due to the lack of resources like vehicles for conveying the offender back and forth to the remand home, the social workers often renew the warrants without the offender.

This however is in contrast with the law which was enacted to act as a way to ensure that the offender is being kept in good conditions both health wise and physically. When this is not being done then the measure to ensure that the child's right to good food, proper health care and good living conditions is not being effectively monitored while in the remand home.

**The right to free legal aid:** The data collected indicated that 92% of the committed offenders did not have access to a lawyer during their trial and those who did, had to pay for the legal assistance offered. Most of these offenders were not aware of the availability of legal aid in the country. The absence of free legal aid can be a drawback for rehabilitating the child in that the legal aid makes the child realize that even in their time of being in conflict with the law the government have measures in place to ensure that their rights are being protected and their voice being heard. In the absence of this however, the child is embittered and feels that the country and everybody else is against him or her at a time when they are considered to be in conflict with the law. This goes a long way to affirm the welfare principle based on which Ghana's Juvenile Justice Act is built.

Another major claim that the juvenile justice system is gradually being rendered ineffective as a result of the lack of free legal aid and representation for the juveniles has



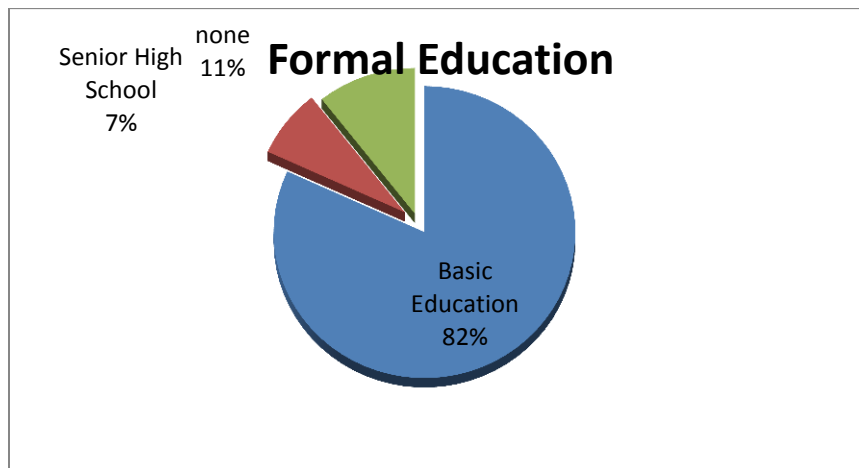
been confirmed by these findings (Baa-Ang, 2012). This leads to the improper functioning of the system due to its nonconformance with the law.

**The right of the child to be educated:** Fortunately, the data collected indicated that a high percentage of the juveniles committed in the boys' correctional homes have access to formal education though its quality cannot be guaranteed due to the lack of resources. 82% of students who have access to basic education as shown below are all comprised of inmates of the Senior (Boys) Correctional Home alone. From figure 1.3, it can be inferred that 7% of the inmates attend senior high school located close to the correctional institute while 11% do not have access to any form of formal education either by choice or by reason of unavailability of such a privilege.

The inmates at the Girls Correctional Centre on the other hand do not have access to any form of formal education but only vocational training. The absence of formal education at this correctional centre creates a gap in the process of re-integration. This is because the girls who are being detained for almost three years are denied their right to be educated during the period. Consequently becomes difficult for them to fit into the society because apart from missing out on education, they are likely to lose interest in schooling after their stay and may find other means of livelihood which could be detrimental to their lives.

In summary the rights of the female inmates are being undermined as a result of the absence of formal education in the home and this is inconsistent with the juvenile justice system and the constitution of Ghana. The lack of formal education which increases illiteracy rate can result in a rising crime rate which is detrimental to economic growth and development.

**Figure 1.3: Formal Education in Correctional Homes**



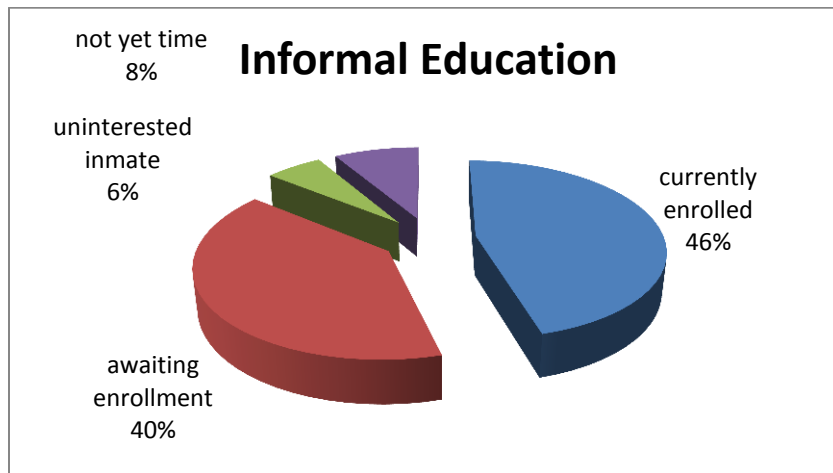
**Source: Field Data**

**Provision of Vocational Education:** Informal education provided in both correctional centers range from plumbing, sewing, carpentry, tailoring, bead making, fitting, music, among others. The inmates are supposed to be enrolled on a program of their choice six months after incarceration according to the law. The research however indicated that only 46% of the inmates are currently enrolled in a type of vocational training while 40% of the sample are eligible yet have not yet been enrolled in the program they desire. 8% of the inmates were not yet eligible to be enrolled in such a program because they had been detained for less than six months. Surprisingly 6% of the sample inmates have shown no interest in any of the vocations, hence have not been enrolled in the program. The aim of the vocational training is to provide the inmates to be equipped with skills to earn a living when they leave the home.

Such a huge percentage of the inmates are however not enrolled in the program because of the lack of resources both human and monetary to ensure the effectiveness of the program. Those enrolled according to data collected are enrolled on the program when they have about a year to leave the home and this as compared to three-year

training is inadequate in fully equipping inmates to start a trade with the training without further training.

**Figure 1.5: Vocational Training**



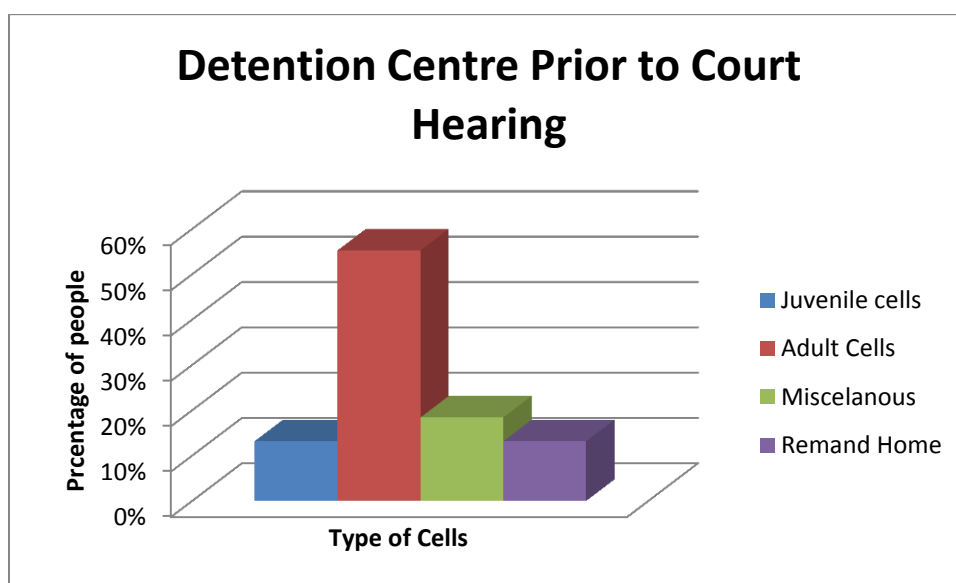
**Source: Field Data**

**Place and duration of Detention prior to court hearing:** Juveniles by law are not supposed to be mixed with adult prisoners; this is the aim of the juvenile justice system. The system was created to ensure that children who are in conflict with the law do not have to interact with the criminal justice system. Figure 1.6 however shows that about 55% of juveniles are detained in adult prisons prior to the court hearing, while about 13% are detained in juvenile cells, 13% in remand homes with the rest being detained in either police stations or counter backs separate or not from the adult prisoners. This clearly contradicts the provisions of the Juvenile Justice Act.

The reason for this according to an interview with a worker in the correctional home is the lack of juvenile cells in many regions in the country. The police officers therefore do not have an option but to keep the children with the adult prisoners. The effect of this is that, the children are left at the mercy of the adult prisoners who may

maltreat them during their stay in the cells. Further juveniles are not supposed to be seen as criminals but offenders who acted out of their youthful ignorance hence should be treated as such but not as prisoners.

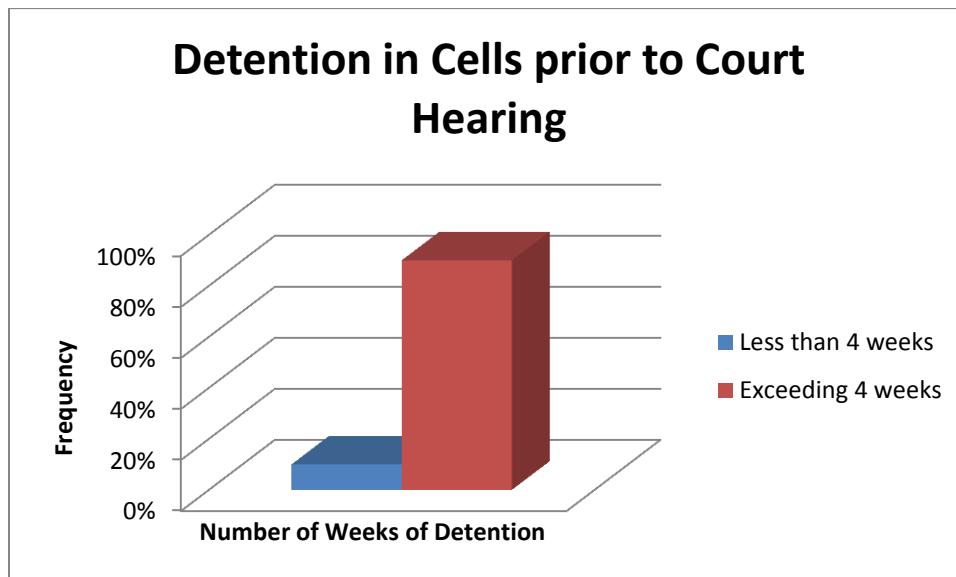
**Figure 1.6: Detention Centre for Juvenile Prior to Court Hearing**



**Source: Field Data**

The detention of juveniles in cells prior to court hearing should be within 48 hours according to the law. The juvenile within the 48 hours should be transferred to the closest remand home. The situation on the ground according to research findings indicate that 80% of juveniles are detained in police cells, juvenile cells and adult cells for more than 4 weeks while the rest are kept for less than 4 weeks. Figure 1.7 illustrates this below. Again, this inconsistency occurs as a result of the lack of facilities and resources like vehicles, social workers and probation officers to investigate the cases so as to quickly get the child ready for a court hearing in the shortest possible time.

**Figure 1.7: Place of Detention Prior to Court Hearing**



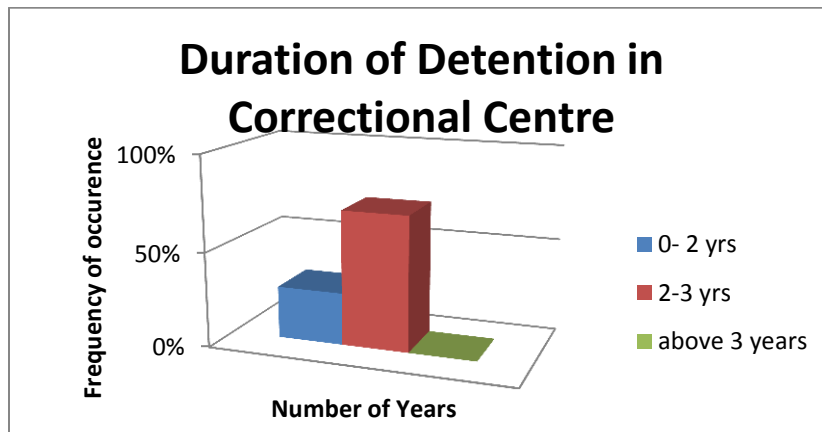
**Source: Field Data**

**Duration of Detention after Court Hearing:** The maximum number of years that a juvenile can be detained is 3 years and this is only for serious crimes like murder, rape and any other as determined by the ruling judge. Otherwise juveniles should be detained for two years within which it is expected that they can be reformed through retraining and re-socialization.

Figure 1.8, shows that the no juvenile from the sample has been detained for more than three years or given a sentence exceeding three years, rather, about 64% of inmates are expected to stay there between two to three years while the rest of the inmates have to be there for periods beyond two years. Different offences by juveniles merit different punishments and the ruling is usually determined by factors such as the behavior of the child toward the incident, the environment within which the incident happened as well as the ability of the child to identify and accept mistake made. These

factors determine the offender's level of need for rehabilitation hence the different punishments meted out to juveniles even for similar cases.

**Figure 1.8: Duration of Detention of Inmates in Correctional Centers**



**Source: Field Data**

**Provision of good food and water:** Finally, committed juveniles are expected to be provided with tasty meals and water to ensure that they remain healthy. About 95% of the inmates at the senior correctional centre complained about the meals they are served with. The food according to the data collected is not tasty. Underlying the welfare system, the child's best interest should be taken into consideration at all times. He/she is not supposed to be subjected to harsh conditions because of their offences rather they should be provided with their needs so they feel loved, hence, pay attention and take seriously the rehabilitation processes.

#### **4.3 The Rehabilitation Process**

##### **4.31 Responses from the Inmates**

During the administration of questionnaires about 90% of the inmates indicated a few things may have changed in their lives with only about 10% of these inmates saying they haven't improved in any way. The rehabilitation process is expected to happen in the correctional home hence a good number claiming to have improved is encouraging.

These improvements according to the research emanated from the discipline instilled in them at the home, the restrictions that come with detention and the lessons they receive weekly on Christian living.

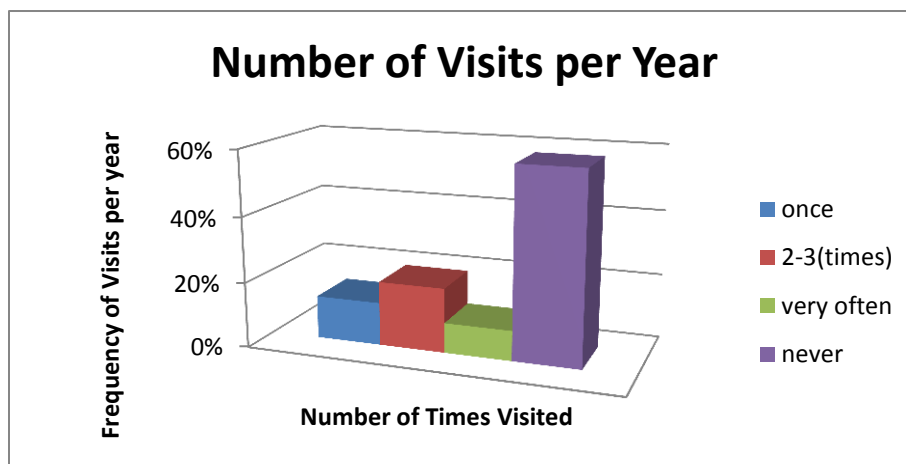
With regards to the discipline, the children claim they try their best to be in the good books of the officials who take care of them for fear of being punished. The punishments include flogging, being kept alone in a separate room called “P.G.”, after being caned mercilessly. The few inmates who have been to that room explained that it’s the worst punishment ever, as it feels like a real prison. Children who commit crimes like theft, smoking while in detention are taken to that room.

The juvenile justice system is aimed at reforming the child, but is this the best way of ensuring this? The children now stay away from doing wrong not because their mindsets have been renewed, rather they desist from certain habits just for the fear of punishments. This should not be the case as it defeats the purpose of the juvenile justice system; this is because with such a mindset the child would not mind committing a crime when nobody is around provided he is assured he will not be caught. This is a total failure and contradiction of the juvenile justice system since in the process the child is not reformed but made to do the right for fear of punishment.

As part of the rehabilitation process families are expected to be included since they are the ones these juveniles will go back to when their period of incarceration is over. This is because when the family is involved the transition of the juvenile from the correctional centre back into the society is made much easier as the juveniles are already comfortable with family even though they have stayed away for a period of time. This is a critical step towards re-integration since the family is the juvenile’s first contact with the community.

Figure 1.9 below, however shows that families are seldom involved in the rehabilitation process with more than half of the inmates not receiving any visitors at all and less than 50% receiving visitors every once in a long while. The lack of family involvement is usually as a result of their unawareness of the whereabouts of their ward due to migration of most of the inmates from their hometowns to the city. Most of these family members also do not leave close the correctional home hence find it difficult to travel all the way to visit their ward.

**Figure 1.9: Number of Visits per year**



**Source: Field Data**

As already discussed above, the lack of family involvement in the rehabilitation process is a big blow to its success.

#### **4.32 Responses from Regional Director of Social Welfare and officials at Correctional Centers**

The department of social welfare is the institution in charge of the remand homes and correctional facilities in Ghana. Also the department is in charge of ensuring the training of probation officers who assist to investigate cases relating to juveniles. The effectiveness of the children's act is to an extent dependent on the operations of the



department of social welfare. However due to certain challenges the provisions of the act do not happen to be the situation in the country currently. These problems will be discussed as explained by the regional director during the interview.

The results of personal interviews with the regional director of the department of social welfare under the auspices of the Ministry of Social Welfare revealed that there was only One Girls' Correctional Centre in Accra and the whole of Ghana, one Senior Correctional Centre for boys in Accra and a remand home for the Greater Accra Region. The interview indicated that the correctional facilities in the country first and foremost are not adequate in attending to the needs of the offenders. Further every region has a remand home which however is in a rather deplorable state as at now making its ability to contribute to reformation low.

As required by law, minor offences like theft, quarrels, assault, causing minor damage and the like need not be dealt with in court but rather through child panels. This system is called diversion and is aimed at involving people in the community in the rehabilitation process to keep the young offender from coming into contact with the criminal system. Child panels make rehabilitation easier and faster since minor issues are attacked immediately with both victims and offender to amicably resolve the problem while providing guidance and counseling for the offender.

This system however has collapsed in Ghana according to the information gathered. Child panels were set up in every region but lasted not long after its inauguration. The ability of the community to reform its young offenders and quickly reintegrate them back into the society therefore has been removed and the system by this has failed to protect the child's welfare. "The breakdown of the child panel system cuts the offender from his community" (Gast, 2001). As a result minor cases still have to be

tried in the court and in certain cases such offenders are detained in remand homes. This is not helpful and is inconsistent with the law.

According to the Juvenile Justice Act, committal should be the last resort with regards to juvenile offences but this is not the case. This is because the bailing system has failed to be operational in these circumstances. The families of these juveniles are usually not found to bail their wards. In the absence of the bailing system the next option should be the probation system where the offenders are released into their environment under the supervision of a probation officer and subject to certain conditions. This system does not work either due to the unavailability and inadequacy of probation officers to carry out this task.

The department of social welfare trains probation officers but unfortunately these officers tend to leave after a while hence creating a need for retraining which is costly. The probation system which is a requirement for diversion of the offender from the criminal system therefore is rendered ineffective in playing its role of rehabilitation.

According to the Act, juvenile offenders are entitled to free legal aid in the handling of their cases. Mr. Akonu however explained the difficulty in making this possible. Very few lawyers opt for juvenile cases since they earn very little from such cases. Also there is not enough money to be made available for such services hence the absence of the service to the offender.

In addition, challenges affecting the proper administration of the juvenile justice system include the inadequacy of financial support from the government and international organizations for logistics, transportation and other costs necessary in the proper handling of juvenile cases.

Only serious offences should merit three years of detention of the juvenile as stated in the Juvenile Justice Act. Such serious offences include murder, armed robbery, offences related to fire arms, defilement, drug related cases and indecent assault. The offences committed by offenders for the purpose of this research are highly representative of these offences and hence have been detained for three years. Given the high rate of cases relating to such serious offences, there is a need to be a system effective enough to ensure that these offenders are truly rehabilitated by the end of the four years.

## **CHAPTER 5: CONCLUSION & SUMMARY**

This chapter will provide a summary of the findings, conclusions drawn and give recommendations for the future. Also identified areas necessary for further research will be outlined.

### **5.1 Summary of findings**

This study was set to investigate the effectiveness of the juvenile justice system in ensuring the rehabilitation of the offender. The Juvenile Justice Act is the main underlying principle of the Juvenile Justice System and its adherence ensures that the child is protected and rehabilitated effectively into the society. This Act was enacted twenty years ago; however, from the study the progress so far has been slow and minimal. After meticulous and extensive research, the provisions of the Juvenile Justice Act have been downplayed and not adhered to, to a large extent, hence has not been effective in ensuring the realization of the ideal rehabilitation for the young offender.

There are however a few strengths of the system that help in carrying out the requirements of the children's act to ensure effective rehabilitation. These strengths are captured below.

#### **5.11 Strengths Identified from Analysis**

Certain strengths of the system that need to be continued and even improved include the religious and moral education the children are receiving at the juvenile home. All inmates at the correctional facilities indicated that they have witnessed a paradigm shift in their lives as a result of the Christian teachings they receive during the course of their stay. Some have through these lessons come to understand the need to do the right things. This aids in the rehabilitation process in that the children through this

education get a new mindset which can guide their actions in the future if only they hold on to it.

Both correctional centers seem to offer a wide range of vocational training programs. These programs make it possible for the students who were enrolled on it earn a livelihood after leaving the home even when they have no family to go back to. Such a child would otherwise go back to the streets.

Also the law that says, “no child should be kept in the correctional facility/ home for more than three years,” has been strictly adhered to by both the courts and the department of social welfare. This is good for the child because he then doesn’t have to spend more than three years away from home and his society.

It was also discovered that the restriction that comes with detention gives the offenders a new perspective to life since they miss the freedom they had back at home. Hence the restriction indirectly acts as a deterrent to keep the child from repeating their delinquent activities.

### **5.12 Weaknesses/Loopholes**

The practices in the correctional homes depicted more weaknesses than the strengths identified and these were due to certain challenges. There is generally a lack of funds for the administration of the juvenile justice system. The government being the institution in charge of ensuring this has made little funds allocated for this course. The low level of funds available makes it difficult for all the requirement of the system to come into reality as it all requires money. The children for instance complained of the low quality meals they are forced to eat and this can be linked to the inadequate funds available for their upkeep.

Also there is lack of supervision by the body that supersedes the correctional centres to ensure that the rules are not being violated. The department of social welfare is the body in charge of the correctional homes among other issues of welfare in the country hence not adequate in carrying out its roles of supervision. The reason for which child panels are inaugurated but never actually operate can only be attributed to the poor supervision to follow-up on the already scarce resources invested in a certain provision of the children's act.

Also free legal aid is not available for the offenders to have access to, as required by the children's act. Findings from this study indicate that it is difficult to find lawyers to handle the cases of these young offenders because these children usually lack the money to pay for their services.

The government and other international organizations like the UNICEF are expected to ensure that lawyers and other legal aids are made available to children who have fallen foul of the law. This is however not the case leaving certain cases to lie for months while the hearing of some are done without the lawyers to save time. In such a case there is no one to defend the child and this could to an extent sway the verdict to an undesirable direction.

Child panels which are an essential component of the rehabilitation process have totally collapsed in the various districts. Every district is supposed to have a well functioning child panel where minor offences are resolved and diverted from coming into contact with the criminal system. This system does not work hence even minor cases of theft are tried in courts and offenders put on remand. The need for the child panels was however to probe into such issues to find the cause and resolve it since most of these happen as a result of parent's negligence or poverty. Through child panels the solutions

could have been found, the victim of the offence apologized to, and the offender can move on with his life having been restored to a better position that will not call for such an act again.

Another big challenge of this justice system is the ineffectiveness of the probation system. The probation system does not function properly due to lack of resources both human and financial. The police officers trained to be probation officers according to this research tend to leave for educational purposes and in the process leaving a gap that needs to be filled. The fund available to the outfit in charge is however inadequate such that not too many officers can be trained to handle juvenile cases.

The high turnover of probation officers is therefore a big factor militating against the success of the rehabilitation process. Probation officers leave because they are not committed to what they do and this is detrimental for progress. Within the probation system, once again certain minor offences would not need to be dealt with through probation; rather the offender is released into his environment under the supervision of a probation officer in his community. This however does not work because probation officers are usually found in the cities and not in every town in the country hence inadequate for this system to work.

Finally the rights of the child to an extent are not being protected. This is because the inmates of the girls' correctional centre are not taken to school at all and only have to learn a vocation while in detention. This goes against their right to be educated by virtue of their Ghanaian citizenship and should not be condoned by such a system that has been put in place to protect the rights of the child who has come into conflict with the law. Secondly at the boys' correctional centre while some of the boys had access to formal education, there were a few who complained of the quality of what is being

taught. Students at the lower levels especially in the primary school for instance are only taught about three subjects; English, mathematics and science occasionally for two hours each day of the week. This is insufficient and not helpful especially for those who were in school before being incarcerated.

Almost all inmates of the home were detained for more than a week in police cells before their case was sent to court or were transferred to a remand home awaiting trial. This is a violation of the laws in the children's act and a violation of the rights of such children. In these police cells the children are mixed with adult criminals because most regions in the country do not have juvenile cells. Mixing the children with adult prisoners can be dangerous for the young offender as they may even learn certain bad practices within their short period of stay. Further, the juvenile justice system was enacted to ensure that the child who commits an offence does not come into contact with the adult criminal system and detaining them with adult prisoners violates this basic principle.

## **5.2 Conclusions & Implications**

From the summary of findings it can be concluded that, the juvenile justice system is on probation and progress is being made with painful steps (Mensa-Bonsu, 2006). Its effectiveness has not yet been realized in full but in part and there is still more work to be done. The aspects of the system that have been adhered to include the offering of a wide range of vocational training though not all eligible offenders are enrolled currently on a training program, the protection of the child from the environment's harsh conditions as a result of his offence and creating a paradigm shift in the way the child views life as a result of the restrictions that come with incarceration.



Poverty is a major challenge that drives young people to commit crime. This is a fact of life. In ideal socialism, there will be no poverty and hence this young offender driven to crime because of poverty will not have done so. Are we not punishing offenders who were driven to commit misdemeanors or even felonies for the failures of the system which is poverty? The government needs to step up and make the necessary changes to alleviate poverty in the country.

Other challenges of the system include the lack of funding for the required processes, lack of committed personnel, and lack of facilities to aid the processes like juvenile cells in all regions, the breakdown of the child panel system and the non-involvement of the family in the rehabilitation process.

The data collected indicates that there is a wide gap between the administration and practices under the juvenile justice system and the requirements of the juvenile justice system. The government's non-commitment to allocate funds for the administration of justice with the young offenders leaves a lot at bay. The challenges created as a result of this makes the system ineffective in working towards rehabilitating the offender. The financial challenges especially to an extent give a basis for many of the violations of the stipulations of the act since it takes money to establish the needed facilities.

Basically many of the requirements are not being followed as stated above and thereby the system in Ghana is not capable of properly rehabilitating the offender into a useful citizen for the country. This could pose problems for the development of the country as the human resources that come out of this system may lack certain skills or even add up to the illiteracy rate in the country. The government therefore needs to take a closer look at the system and put the right systems in place to reconcile the practices within the system with the Juvenile Justice Act.

### 5.3 Recommendations

The study was aimed at investigating the effectiveness of the juvenile justice system in rehabilitating the offender and to a large extent it has been found to be ineffective. This is because the practices of the system do not match up to the requisites of the Juvenile Justice Act hence incapable of realizing the full aim of the Juvenile Justice System in Ghana. The following paragraphs will enumerate recommendations that can aid in ensuring consistency of the practices in Ghana under the juvenile system with the laws of the system.

First of all, the family *plays an important role in the socialization of the child* and the child's ability to function properly is dependent on this. The breakdown in the family system is the reason for child delinquency. There is therefore a need for the family and community to focus on the proper socialization of the child to reduce delinquent behaviors. Through socialization values are instilled in the juveniles with which can help them to remain calm in times of adversity and keep them away from the justice system. The inclusion of the family is also important in the rehabilitation process and as such all efforts must be made to involve them in matters relating to reforming the offender. Some children whose family cannot be located are released into the environment regardless after their years of detention are over. Instead of this situation which may leave the child to commit a crime again in their bid to take care of themselves a system should be put in place by the department of social welfare where such children are sent to the orphanage or a shelter where their basic needs are provided on a daily basis. This will go a long way to reduce the cases of juvenile delinquency in the country while improving the store of human resources in the country through effective rehabilitation.

*Education is a fundamental right* that never should be contemplated and the offenders are no exceptions to that rule. The juveniles at the girl's correctional centre for

instance need not have to break from their education while in the home but schools should be found in the community for them to be placed in. If there is fear of these girls running away, social workers need to be trained to escort them to and from school, without making their situation too obvious in the school. By no means should the child have to lose out on education because of an offence since they may have acted out of ignorance or negligence of their parents. The officers and counselors at the boys' correctional centre also need to explain to the boys the need for formal education to reduce the number of boys who have opted not to attend school while in the home.

Also the problem of *unavailability of free legal aid* needs to be tackled through negotiations with international organizations, like UNICEF, interested in the welfare of the children to secure funds to handle such cases. Lawyers in the country should also be encouraged to take up a free- bono cases at least once each month as the social responsibility to the country to help settle amicably the conflicts of the child with the states. Agreements should also be entered into by the government and the correctional homes to allocate more funds for the administration of the juvenile justice system.

*The number of correctional facilities available is not adequate* as compared to the number of offenders that are being detained. In the Boys' Correctional Home in Accra there are offenders from every region in the country in that home. Correctional Centers need to be established at least in a few more regions in the country so as to cater for the needs of the offenders effectively. More people should be trained to effectively operate in the juvenile system so as to ensure that the right practices are being carried out. Incentives and benefits need to be put in place to retain such employees and in the process maintain the correctional centre.

Finally, *it is recommended that a body is set up to supervise the operations of the correctional centers and the remand homes and all other institutions operating under the juvenile justice act.* In as much as the department of social welfare handles these cases, it's saddled with other responsibilities that make it difficult for them to closely supervise these activities (Otoo, 2013). There is therefore a need for an independent body that will supersede the practices under the justice system monitoring and ensuring its conformance with the Juvenile Justice Act, 2003.

### **Areas for further research**

The following areas can be further researched to add unto literature and also create awareness of what needs to be done to ensure progress with the juveniles in the country so as to have a rich human resource base for national development.

- The practicality of the Ghana's Juvenile Justice System focusing on the State's ability to fund effectively such a system given the state of Ghana's economy.
- Investigating Juvenile delinquency; its causes and effects, and the possibility of creating communities /environments that deters delinquent activities.
- The rate of Recidivism in Correctional Homes

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## **APPENDIX**

### **Interview Guide and Questionnaire**

Data for this research will be gathered using both interviews and questionnaires from three different sources. The first two sections are guidelines for interviews between the interviewer and legal practitioners (CHRAJ, DOVVSU and lawyers) as well as the staff of the selected juvenile homes. The last section is actually the questionnaire to be answered by inmates at the juvenile homes.

### **SECTION I (Officials at CHRAJ and DOVVSU and Legal Practitioners)**

#### **Understanding the Juvenile Justice System**

1. What's the juvenile justice system about and what are the processes involved?
2. Which theory underlies this system as enshrined in the constitution?( welfare/ retributive or restorative)
3. The role of re-integrating the children: how does the system do this and how do you assess the progress of a child being rehabilitated?
4. What about the children's right to be educated? How is the juvenile justice system making provision for this?
5. What are the shortcomings of the system?
6. In your opinion, why is the Juvenile Justice System important in a developing country like ours?

#### **The Role Of This Institution in Administering Juvenile Justice**

1. What exactly is the role of this institution in juvenile justice and why is it important to you?
2. How many juvenile/ correctional homes in Accra, and Ghana and are they all under your supervision?
3. How does this institution ensure that these homes are effective in reforming offenders while protecting their rights?
4. What are the challenges in performing your roles?

#### **Ghana's Situation on Juvenile Justice Administration**

1. What is Ghana's situation like with regards to Juvenile Justice (evidence)

- How many cases of juvenile crimes are tried averagely and how long does it take before a case is tried?
  - What is the highest sentence ever pronounced on a juvenile?
  - How does the juvenile get a lawyer: does it require money?
  - Have you identified any loopholes in these processes?
  - Have you witnessed cases of blatant disregard for the law in dealing with the juveniles?
  - What is the expenditure by government on juvenile delinquency and its elimination?
  - What are the shortcomings of Ghana's Juvenile Justice System in your view?
2. Are there juvenile courts in Ghana? Is it necessary for this country and why?
  3. Any feedback for this research is welcome

## **SECTION II (Staff of Juvenile Homes)**

### **The Role of Juvenile Homes in Rehabilitating Offenders**

1. What is the role of the juvenile/ correctional institutions in the juvenile justice system?
2. What are the various activities geared towards reforming the offenders?
3. Are there readily available resources (lawyers, caretakers, trainers and financial resources) for ensuring justice administration?
4. What training is available in the home? And in your views is this enough to rid the young offenders off their deviant behaviors or more has to be done?
5. Do the convicts get to continue schooling while in the home?
6. What are some of the shortcomings of this home in administering justice?

### **Data on the Juvenile Cases**

1. How many children are here as at now?
  2. How many residents are here per year on the average?
  3. What are the various criminal activities the offenders are involved in (statistics)?
  4. How long does a convicted delinquent stay in the home( minimum and maximum)
- Are there cases where they have to exceed the limit or leave before the stipulated time? Why?

5. Do some children who are released get arrested again (figures)/ if yes, what could be the cause?

**The Likelihood of Rehabilitation**

1. Do you see progress in terms of behavioral change in the children over the course of their stay?
2. Are the released offenders visited to check on their progress in their homes and vicinities?
3. Are there opportunities for these children outside the juvenile homes (after release) in terms of job availability/ schooling without discrimination?
4. What kind of justice in particular in your view should the juvenile delinquent be subjected to?
5. In your view, what is the way forward to strengthen the Juvenile Justice System in Ghana?

### SECTION III

#### Confidentiality Clause

Your participation in this study will remain confidential, and your identity will not be stored with your data. Information from this research will be strictly used for academic purposes only.

#### Questionnaire for Convicted Juveniles

1. How old are you?(please tick) 10-15 yrs ☐ 16-18yrs ☐ above 18 yrs ☐
2. How long have you been in this home?(please tick)  
Less than 6 months ☐ 6-12 months ☐ 1 – 2 yrs ☐ over 2 yrs ☐
3. Are you aware of the day you will leave this home?(please tick) Yes ☐ No ☐
4. Has your case been tried in a court? (please tick) Yes ☐ No ☐
5. Did you / do you have access to a lawyer to defend you in a law court? Yes ☐ No ☐
6. Are legal services available to you for free?(Please tick) Yes ☐ No ☐
7. What wrong did you do that merited your arrest?  
.....  
.....
8. Do you think the trial was fair?(please tick) Yes ☐ No ☐  
Why do you say so?  
.....  
.....
9. Do you get enough food, water and other personal effects while you stay here?  
(please tick)  
Yes ☐ No ☐
10. Is there enough space for you to sleep well? (please tick) Yes ☐ No ☐
11. Outline your daily activities from morning till bedtime each day?  
.....  
.....  
.....  
.....  
.....

12. Were you in school before you were brought to this home? (please tick) Yes ☐  
No ☐

13. If yes, have you taken a break from school or you still go to school while you are here?  
.....  
.....

14. Are you receiving any form of training while here? (Please tick) Yes ☐ No ☐  
If yes, what kind of vocational training are you receiving here?  
.....  
.....

15. Will you go back to school when you leave the home?(Please tick)  
Yes ☐ No ☐ Uncertain ☐

If "uncertain", why?  
.....  
.....

16. Is there anything you would like to change about your stay here? (Please tick)  
Yes ☐ No ☐

Why?  
.....  
.....  
.....  
.....

17. Can you identify any changes in your life after being here for a while? (Please tick) Yes ☐ No ☐

Please list some of the changes  
.....  
.....  
.....